



February 20, 2004

ENGROSSED SENATE BILL No. 144

DIGEST OF SB 144 (Updated February 17, 2004 2:31 pm - DI 69)

Citations Affected: IC 13-11; IC 13-17; IC 13-18; noncode.

Synopsis: Water systems and emission credits. Establishes the emission reduction credit registry. Defines "transient noncommunity water system." Provides that a transient noncommunity water system that serves a population of 250 or less and that uses groundwater is not subject to engineer certifications or alternative technical standard rules. Allows the transient noncommunity water system to use an alternative to technical standards if approved by the commissioner. Specifies that the commissioner may discontinue an approved alternative standard if the system is not operated in the manner approved. Requires the commissioner, if requested, to modify an isolation area to make an alternative modified isolation area if certain conditions are met. Requires that the water pollution board amend certain sections of the administrative code to comply with this act.

Effective: July 1, 2004.

Meeks R, Lanane, Craycraft

(HOUSE SPONSORS — BOTTORFF, WOLKINS)

January 6, 2004, read first time and referred to Committee on Rules and Legislative Procedure.

January 20, 2004, amended; reassigned to Committee on Environmental Affairs.

January 26, 2004, reported favorably — Do Pass.

February 2, 2004, read second time, ordered engrossed. Engrossed.

February 3, 2004, read third time, passed. Yeas 48, nays 1.

HOUSE ACTION

February 5, 2004, read first time and referred to Committee on Environmental Affairs.

February 19, 2004, amended, reported — Do Pass.

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ES 144—LS 6733/DI 13+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 144

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-11-2-66.3 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2004]: **Sec. 66.3. "Emission reduction**
4 **credit", for purposes of IC 13-17-15, means a reduction in quantity**
5 **of a regulated air pollutant discharged by a permitted source:**

6 (1) **that exceeds the reduction required under local, state, or**
7 **federal:**

8 (A) **law;**

9 (B) **regulation;**

10 (C) **order;**

11 (D) **permit; or**

12 (E) **other requirement;**

13 (2) **that is an actual emission reduction assured for the life of**
14 **the emission reduction credit through any enforceable**
15 **mechanism allowed under rules of the board;**

16 (3) **for which the amount, rate, and characteristics can be**
17 **estimated through a method approved by the department;**

ES 144—LS 6733/DI 13+



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(4) that is in excess of reductions used by the department:

(A) in issuing any other permit; or

(B) to demonstrate:

(i) attainment; or

(ii) reasonable progress toward attainment;

of federal ambient air quality standards; and

(5) that has not previously been used to avoid new source review requirements of the federal Clean Air Act under 42 U.S.C. 7470 et seq. (Part C) or 42 U.S.C. 7501 et seq. (Part D) through a netting demonstration.

SECTION 2. IC 13-11-2-237.5, AS AMENDED BY P.L.224-2003, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 237.5. "Transient noncommunity water system", for purposes of IC 13-18-11, **IC 13-18-16**, and IC 13-18-20.5, means a noncommunity water system that does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year.

SECTION 3. IC 13-17-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 15. Emission Reduction Credit Registry

Sec. 1. The emission reduction credit registry is established. The department shall maintain the registry for each source in Indiana that chooses to apply to the registry for any regulated air pollutant that meets the requirements of an emission reduction credit.

Sec. 2. The emission reduction credit registry must include at least the following information with respect to each permitted source for which an entry is made under section 3 of this chapter:

(1) The amount of each emission reduction credit.

(2) Identification of the regulated air pollutant reduced.

(3) The date the emission reduction occurred.

(4) The location of the source.

(5) Identification of the process or facility associated with the reduction.

(6) The date, amount, and purpose of each withdrawal of an emission reduction credit from the registry under section 5 of this chapter.

Sec. 3. A permitted source may apply to the department to have an emission reduction credit approved by the department for entry in the emission reduction credit registry. The application must indicate how the permitted source achieved the emission reduction. The department shall:

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- (1) review each application made under this section and determine whether the application identifies an emission reduction credit of the applicant;
- (2) enter in the registry each emission reduction credit determined under subdivision (1); and
- (3) notify the permitted source in writing of the department's action under this section.

Sec. 4. An emission reduction credit may be used for any purpose allowed under:

- (1) federal law;
- (2) federal regulations;
- (3) state law; or
- (4) rules adopted by the board.

Sec. 5. A permitted source with emission reduction credits in the emission reduction credit registry shall notify the department in writing each time the source:

- (1) permanently withdraws an emission reduction credit from the list of emission reduction credits held by the source; or
- (2) transfers an emission reduction credit to another entity.

Sec. 6. The department shall:

- (1) verify the withdrawal or transfer of emission reduction credits under section 5 of this chapter;
- (2) update the emission reduction credit registry to reflect the withdrawal or transfer; and
- (3) notify the permitted source in writing of the updated information in the registry.

Sec. 7. The commissioner may revoke or suspend emission reduction credits for cause, including any of the following:

- (1) Evidence of noncompliance with permit conditions imposed to make the emission reductions permanent and enforceable.
- (2) Failure to achieve in practice the emission reductions on which the emission reduction credits are based.
- (3) Misrepresentations made in:
 - (A) the application submitted under section 3 of this chapter;
 - (B) any other application on which the emission reduction credit is based;
 - (C) any subsequent reports or data that support an application referred to in clause (A) or (B); or
 - (D) a notice to the department under section 5 of this chapter.

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Sec. 8. The department shall develop:

(1) forms and instructions for filing:

(A) an application under section 3 of this chapter; or

(B) a notice to the department under section 5 of this chapter; and

(2) guidance for using or retiring an emission reduction credit.

Sec. 9. The board may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 4. IC 13-18-16-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 17. A transient noncommunity water system that:**

(1) serves a population of two hundred fifty (250) or less; and

(2) uses groundwater as a source;

is not subject to 327 IAC 8-3-3(c), 327 IAC 8-3.4-3, or 327 IAC 8-3.4-27.

SECTION 5. IC 13-18-16-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 18. (a) A transient noncommunity water system described in section 17 of this chapter may use an alternative to the technical standards in 327 IAC 8-3 and 327 IAC 8-3.4 if the alternative technical standard is approved under subsection (b).**

(b) The commissioner may approve an alternative technical standard if the alternative will require drinking water of at least the same:

(1) quality; and

(2) normal operating pressure at the peak flowrate;

required by the technical standards in 327 IAC 8-3 and 327 IAC 8-3.4.

(c) The commissioner may discontinue an approved alternative technical standard if the system is not operated in the manner approved by the commissioner.

SECTION 6. IC 13-18-16-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 19. (a) For a transient noncommunity system described in section 17 of this chapter, the commissioner shall, if requested by the system, modify an isolation area (as defined in 327 IAC 8-3.4-1(13)) to make an alternative modified isolation area if:**

(1) the well is located at an existing system; and

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1 (2) the system does not own, lease, or otherwise control a
2 sufficient area to meet the isolation requirements of
3 327 IAC 8-3.4-9.

4 (b) The modified isolation area must place the well at the
5 greatest distance possible from contaminant sources using the area
6 owned, leased, or otherwise controlled by the system.

7 (c) The commissioner may require additional monitoring based
8 on the proximity of the well to contaminant sources.

9 SECTION 7. [EFFECTIVE JULY 1, 2004] (a) Before December
10 31, 2005, the water pollution control board shall amend
11 327 IAC 8-3 and 327 IAC 8-3.4 to reflect this act.

12 (b) This SECTION expires January 1, 2006.

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 144, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Environmental Affairs.

(Reference is to SB 144 as introduced.)

GARTON, Chairperson

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SENATE MOTION

Madam President: I move that Senators Lanane and Craycraft be added as coauthors of Senate Bill 144.

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COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 144, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 144 as printed January 21, 2004.)

GARD, Chairperson

Committee Vote: Yeas 9, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 144, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-66.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 66.3. "Emission reduction credit", for purposes of IC 13-17-15, means a reduction in quantity of a regulated air pollutant discharged by a permitted source:**

(1) that exceeds the reduction required under local, state, or federal:

- (A) law;**
- (B) regulation;**
- (C) order;**
- (D) permit; or**
- (E) other requirement;**

(2) that is an actual emission reduction assured for the life of the emission reduction credit through any enforceable mechanism allowed under rules of the board;

(3) for which the amount, rate, and characteristics can be estimated through a method approved by the department;

(4) that is in excess of reductions used by the department:

(A) in issuing any other permit; or

(B) to demonstrate:

- (i) attainment; or**
 - (ii) reasonable progress toward attainment;**
- of federal ambient air quality standards; and**

(5) that has not previously been used to avoid new source review requirements of the federal Clean Air Act under 42 U.S.C. 7470 et seq. (Part C) or 42 U.S.C. 7501 et seq. (Part D) through a netting demonstration."

Page 1, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 3. IC 13-17-15 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 15. Emission Reduction Credit Registry

Sec. 1. The emission reduction credit registry is established. The department shall maintain the registry for each source in Indiana that chooses to apply to the registry for any regulated air pollutant

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that meets the requirements of an emission reduction credit.

Sec. 2. The emission reduction credit registry must include at least the following information with respect to each permitted source for which an entry is made under section 3 of this chapter:

- (1) The amount of each emission reduction credit.
- (2) Identification of the regulated air pollutant reduced.
- (3) The date the emission reduction occurred.
- (4) The location of the source.
- (5) Identification of the process or facility associated with the reduction.
- (6) The date, amount, and purpose of each withdrawal of an emission reduction credit from the registry under section 5 of this chapter.

Sec. 3. A permitted source may apply to the department to have an emission reduction credit approved by the department for entry in the emission reduction credit registry. The application must indicate how the permitted source achieved the emission reduction. The department shall:

- (1) review each application made under this section and determine whether the application identifies an emission reduction credit of the applicant;
- (2) enter in the registry each emission reduction credit determined under subdivision (1); and
- (3) notify the permitted source in writing of the department's action under this section.

Sec. 4. An emission reduction credit may be used for any purpose allowed under:

- (1) federal law;
- (2) federal regulations;
- (3) state law; or
- (4) rules adopted by the board.

Sec. 5. A permitted source with emission reduction credits in the emission reduction credit registry shall notify the department in writing each time the source:

- (1) permanently withdraws an emission reduction credit from the list of emission reduction credits held by the source; or
- (2) transfers an emission reduction credit to another entity.

Sec. 6. The department shall:

- (1) verify the withdrawal or transfer of emission reduction credits under section 5 of this chapter;
- (2) update the emission reduction credit registry to reflect the withdrawal or transfer; and

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(3) notify the permitted source in writing of the updated information in the registry.

Sec. 7. The commissioner may revoke or suspend emission reduction credits for cause, including any of the following:

(1) Evidence of noncompliance with permit conditions imposed to make the emission reductions permanent and enforceable.

(2) Failure to achieve in practice the emission reductions on which the emission reduction credits are based.

(3) Misrepresentations made in:

(A) the application submitted under section 3 of this chapter;

(B) any other application on which the emission reduction credit is based;

(C) any subsequent reports or data that support an application referred to in clause (A) or (B); or

(D) a notice to the department under section 5 of this chapter.

Sec. 8. The department shall develop:

(1) forms and instructions for filing:

(A) an application under section 3 of this chapter; or

(B) a notice to the department under section 5 of this chapter; and

(2) guidance for using or retiring an emission reduction credit.

Sec. 9. The board may adopt rules under IC 4-22-2 to implement this chapter."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 144 as printed January 27, 2004.)

BOTTORFF, Chair

Committee Vote: yeas 12, nays 0.

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